

CASE NO. 08cv1589

ATTACHMENT NO. 7

EXHIBIT _____

TAB (DESCRIPTION) _____

1 THE COURT: Order of court, February 9th

2 MS. PLACEK: What time does the Court
3 want defense Counsel for evidentiary hearing,
4 Judge?

5 THE COURT: Do you think you can have
6 that witness some time tomorrow?

7 If you can we'll hear him when we can get
8 to him. If you can't have him here tomorrow, you
9 may be able to give us some indication as to
10 when he can be here and we may be able to more
11 effectively schedule him in for his convenience.

12 MR. MURPHY: Judge, we will check
13 tonight.

14 Judge, as a matter of procedure, do you
15 want the officer to be here as a witness in court
16 or just to be available for the defense Counsel to
17 interview?

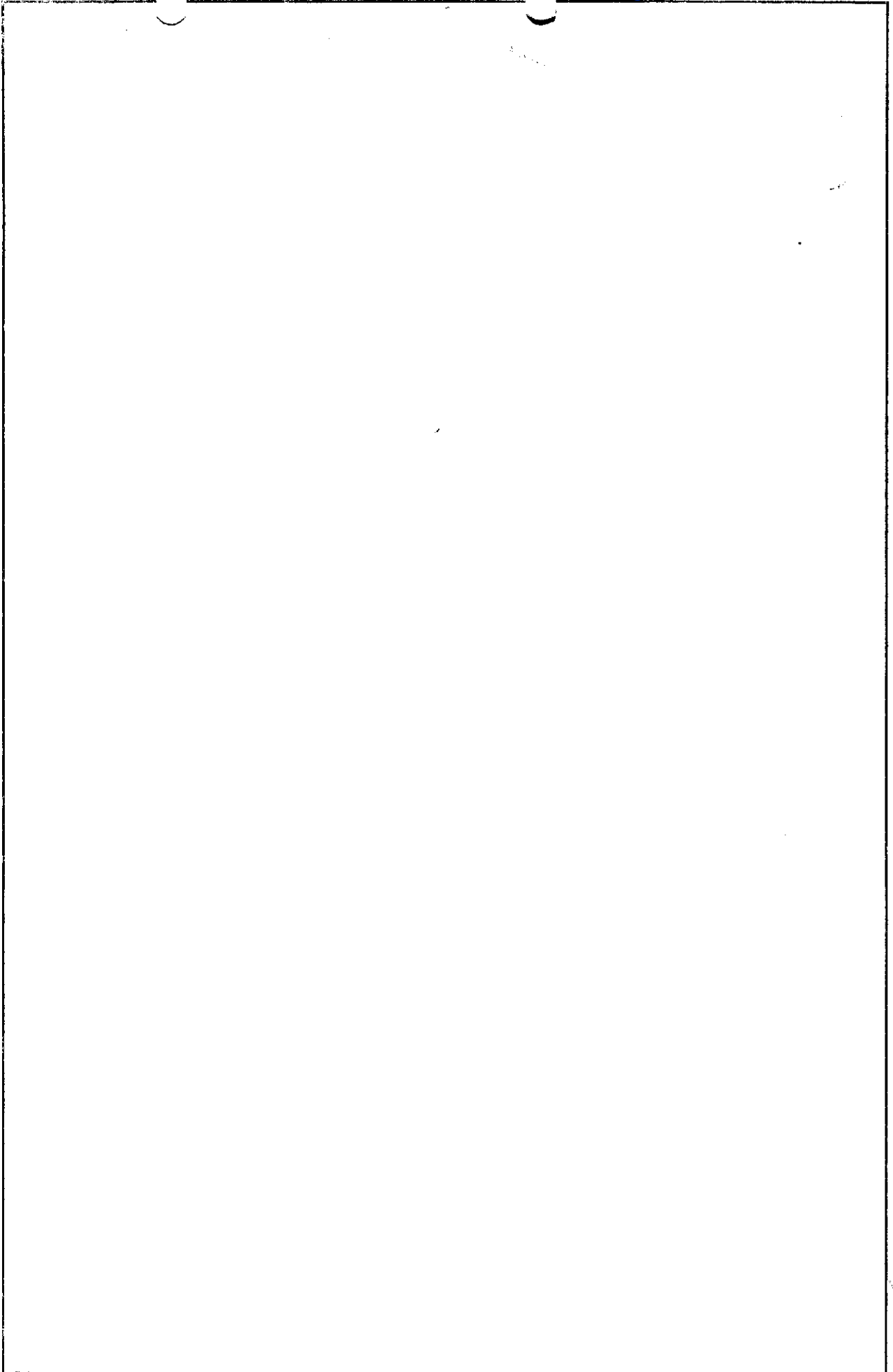
18 THE COURT: It depends what becomes
19 necessary. It may become necessary for us to
20 conduct a voir dire hearing to determine what is
21 meant on the statement, or he may be able to
22 satisfy Counsel on a one-on-one conversation and
23 he may be able to satisfy both of you and the
24 issue may become mute. If not, we will conduct a

1 limited hearing to see if we can determine what
2 he's talking about.

3 MS. PLACEK: Irrespective, Judge, like I
4 said based on the court's ruling, I would be
5 answering ready.

6 THE COURT: 9:30, tomorrow morning.

7 (WHEREUPON the trial of this
8 cause was adjourned and
9 continued to tomorrow,
10 February 6, 1991.)
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1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF C O O K)

4 IN THE CIRCUIT COURT OF COOK COUNTY
5 COUNTY DEPARTMENT-CRIMINAL DIVISION

6 THE PEOPLE OF THE)
7 STATE OF ILLINOIS)
8) Indictment No. 88 CR 12517.
9 VS)
10) Charge: Murder, etc.
11 JEROME HENDRICKS)

12 REPORT OF PROCEEDINGS

13
14 BE IT REMEMBERED that this cause came on to be
15 heard the 6th day of February, A. D. 1991, before
16 the Honorable LEO HOLT, Judge of said court.
17

18 APPEARANCES:

19 HON. JOHN O'MALLEY,
20 State's Attorney of Cook County, by
21 MR. JOHN MURPHY and
22 MR. SCOTT CASSIDY,
23 Assistant State's Attorneys,
24 appeared for the People;

25 MR. RANDOLPH N. STONE,
26 Public Defender of Cook County, by
27 MS. MARIJANE PLACEK and
28 MR. VINCENT LUFRANO,
29 Assistant Public Defenders,
30 appeared for the defendant.

31 J. P. Washington, CSR
32 Official Shorthand Reporter
33 2650 South California Avenue
34 Chicago, Illinois 60608

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1 THE CLERK: Jerome Hendricks.

2 (Defendant present.)

3 THE COURT: You may be seated at counsel
4 table, Mr. Hendricks.

5 Lady and gentlemen, yesterday, I
6 took under advisement, the State's motion for leave
7 to amend certain counts of the indictment, counts
8 five through 11, I believe it was.

9 Am I right on that, Mr. Cassidy,
10 where the State wished to strike the word "and" and
11 add the word or insert a sentence of the
12 indictment, causing the indictment in each instance
13 to read: "By use of force or by threat of force"?

14 MR. CASSIDY: Correct.

15 THE COURT: And that is counts five through
16 11, inclusive. I have had an opportunity to
17 consume some of the authorities on the issue, as
18 sparse as they are, and I have concluded that this
19 is a formal defect within the meaning of Section
20 111-5 of the Code and is subject to being amended.

21 Accordingly, see People versus Hayes
22 for that proper section, the citation to which I
23 don't recall right now. If it comes of memory, I
24 will give the citation to Counsel; but, it is

1 People versus Hayes.

2 Accordingly, leave is granted to the
3 State to amend counts five through 11, inclusive.

4 MR. CASSIDY: Judge, I don't think count 10
5 was one of them, but the other counts, five through
6 11 are all right.

7 THE COURT: Count 10 doesn't seem to have been
8 included. I am going to also ask you if you would
9 make the amendments as to those counts and as to
10 counts three and four, which were granted leave to
11 amend yesterday, if you would make the amendments
12 on the face of the indictment itself.
13 (Indicating.)

14 MR. CASSIDY: Sure, Judge.

15 THE COURT: Also, the court had under
16 advisement, the State's motion in limine in regard
17 to other crimes evidence. And I was advised that
18 the other crimes evidence involved an occurrence
19 which took place in 1984.

20 MR. MURPHY: Two occurrences, Judge.

21 THE COURT: And one, which took place at about
22 the same period of time, both of them approximately
23 1984.

24 This indictment alleges an

1 ccurrence, which took place in 1988, a time span of
2 approximately four years. After consulting the
3 authority, I have come to the conclusion that in as
4 far as intent, identity, common design, that the
5 1984 cases or occurrences are too remote.

6 On the other hand, if there is a
7 sufficient similarity so as to meet the criteria
8 set forth by the cases for a show of modus
9 operandi, that may very well make the otherwise
10 remote occurrences admissible.

11 I am unable to tell, at this
12 juncture, whether or not there is a sufficient
13 similarity between the occurrences to rule
14 definitively as to whether it is admissible.

15 I presume that at the time that the
16 other crime evidence is sought to be admitted, I
17 will at least have a substantial factual basis of
18 what this occurrence is all about; and upon
19 certainly an offer of proof or under the bar
20 examination of potential witnesses as to the other
21 crimes, I will then be able to make a comparison to
22 determine whether or not there is suffer similarity
23 to allow the jury to hear the other crime evidence.

24 There is a case which the State

1 tendered to me, not in connection with this case,
2 but in connection with another case, the name of
3 which eludes me right now, but I can provide you
4 with that, also, which provides a fairly good
5 discussion regarding similarity and what must be
6 sought in order to establish similarity, sufficient
7 to meet the requirement for admissibility.

8 Mr. Murphy, you may know the case
9 that I am talking about but I can't think of it
10 right now.

11 MR. MURPHY: Judge, I can't recall offhand. I
12 know there were a large number of cases I tendered
13 on the other matter.

14 THE COURT: In any event, Miss Placek, I will
15 give you the name and citation of the case when we
16 next reconvene. I just, it won't come to my head
17 right now, although I read it just yesterday. I
18 guess I must be slipping. You can only keep so
19 much in your head.

20 In any event, there are some other
21 matters which are still under advisement that I'm
22 not able to resolve for you now. I thought I would
23 give you that bit of information, so as to aid you
24 in the preparation of your case.

1 Mr. Murphy, is the witness that we
2 were talking about yesterday in regards to that
3 police report, is he available today?

4 MR. MURPHY: No, Judge, he is not. We expect
5 that he will be here tomorrow; he is off today.

6 MR. CASSIDY: I called over there, Judge, he
7 wasn't working yesterday. The person who answered
8 the phone believed that he would be working
9 tomorrow.

10 THE COURT: I am going to take about a
11 two-minute recess. I am going to ask the sheriffs
12 to allow the defendant to remain in open court and
13 to have the jury brought into the courtroom. We
14 will reconvene and proceed with jury selection.

15 MS. PLACEK: If it pleases the court, Judge,
16 the state's attorney has led me to believe that,
17 quite frankly, because of their negligence, I can't
18 try my case to the fullest. We still have a Brady
19 violation outstanding.

20 Although these state's attorneys,
21 who claim that they didn't have five police
22 reports, which in fact were tendered at the Office
23 of the Public Defender last night, the absurdity of
24 claiming they didn't have it, as a unity, in fact

1 when one would imagine they would be somewhat
2 questioning about said reports if they were someone
3 dealing with the motion, these were the police
4 reports that were used.

5 So one would imagine that if one
6 read the transcripts in preparation for the motion,
7 one would find somewhat questioning as to these
8 reports.

9 My suggestion in this matter, Judge,
10 and I will put this in the form of a motion, is,
11 number one, because of the fact that the State, in
12 violation of the Brady Rule, after their admission
13 that Brady material is in fact contained within the
14 report --

15 MR. CASSIDY: That is not true; we never said
16 that was Brady material.

17 MS. PLACEK: Judge, may I be allowed to
18 finish?

19 THE COURT: I will let you respond, fully,
20 until you have exhausted any response that you
21 want.

22 MR. CASSIDY: Thank you. She is mistating the
23 facts.

24 MS. PLACEK: Judge, to refresh the court's

1 memory, the gentleman, when he said it the first
2 time he just spoke, he saw the material. I
3 think -- What did you call me, Counsel? What did
4 you call me?

5 THE COURT: Miss Placek, please, address your
6 remarks to me.

7 MS. PLACEK: I thought I heard Counsel refer
8 to me in a derogatory term.

9 Your Honor, if it pleases the court,
10 the issue before the court, becomes, because of the
11 fact of the State's negligence, because of the fact
12 that it now stands at 11:30, because of the fact,
13 quite frankly, Judge, that Counsel, who argued and
14 interrupted my argument previous to the statement
15 stated to the court's questioning, that not only
16 the material claimed within the police report was
17 Brady material, but that the witness was in fact
18 Brady material to this court's questioning to the
19 fact; that I was here, approximately 9:00 o'clock,
20 for the 9:30 setting, and this is the first time I
21 have heard, I don't believe Mr. Lufrano may have
22 known something, he suggested to me that perhaps
23 the State couldn't get their witness today, but
24 irrespective of that, Judge, I can't select a jury

1 on that matter today unless I know exactly where I
2 am heading with the statement contained within the
3 report, unless the State is going to stipulate to
4 that report.

5 MR. MURPHY: Are you finished, Counsel?

6 MS. PLACEK: Quite well.

7 MR. MURPHY: Your Honor, may I respond?

8 THE COURT: Surely.

9 MR. MURPHY: Judge, first of all, Counsel is
10 completely in error in stating that the State was
11 negligent. It would appear, from the defendant's
12 own argument, Counsel's own argument, that she had
13 these reports in her possession at least at the
14 time of the motions.

15 Incredibly, Judge, if this is such
16 an important issue, it is interesting that the very
17 first time this comes up is on the eve of jury
18 selection. If the Defense was so concerned about
19 finding out about this anonymous source, why did
20 they never file any motion in this courtroom,
21 allowing this case to pend for two years?

22 Judge, the State was not negligent,
23 in anyway. That report was, according to their
24 admission, according to their argument, in their

1 possession; all the information contained in that
2 report was in their possession.

3 There is no Brady violation here,
4 Judge. It is ridiculous.

5 THE COURT: You have anything further you care
6 to say, Miss Placek?

7 MS. PLACEK: Yes, Judge. I believe that there
8 was Brady material. The court so ordered, in fact,
9 that the witness be produced in this matter, Judge,
10 because of the necessity of holding credibility,
11 both in opening statements and trial tactics.

12 The State has deprived Mr. Hendricks
13 of in fact a vital issue. I would point out in the
14 transcript, when this was in court, the court
15 sustained the objection dealing with this matter
16 during the motion.

17 We attempted, we were unsuccessful,
18 we brought it to the court's attention. There was
19 no objection as to too timeliness. And, quite
20 frankly, Judge, we are just asking the State to
21 live by the court's ruling as of yesterday.

22 MR. MURPHY: Judge, that is a
23 misrepresentation as to what happened in the
24 motion.

1 THE COURT: That is it, Mr. Murphy, otherwise,
2 we will be here the rest of the afternoon arguing
3 the case.

4 I don't know whether or not counsel
5 is interested in the court trying to fix blame. If
6 you are, that is not going to happen; I am
7 unconcerned with fault. What I am trying to do is
8 to assist the defendant in getting that which he is
9 entitled to, if he is entitled to it.

10 On the other hand, one cannot help
11 but agree that if this evidence was of such
12 magnitude, that it was never brought before the
13 court on a motion to cause the State to disclose;
14 although it has been apparently in Counsel's
15 possession at least a year and maybe longer; and
16 knowing the way in which it would impact on trial,
17 only when we commence jury selection, does the
18 court hear that there might have been some failure
19 to fully and adequately disclose.

20 I am going to conduct a hearing.
21 There are some other reasons why that approach is
22 appropriate, too: Because Brady material, the
23 burden of showing a failure, that, one, it was
24 Brady material and, two, that there was a failure

1 to disclose is on the Defense.

2 It is also necessary in many
3 instances that the defendant make a specific
4 request to disclose, in order to preserve for
5 error, any failure to disclose Brady material.

6 None of those things have been done
7 in this case, which are not significant, in my
8 judgment. If in fact there is something out there
9 that is of importance to the defendant and ought be
10 disclosed, I intend to have him get it and to try
11 and provide a reasonable opportunity for him to
12 make use of it.

13 That, it seems to me, is consistent
14 with Brady. And it is consistent with the
15 defendant's fundamental right to a fair trial. On
16 the other hand, I am not going to indulge in the
17 ridiculous process of trying to fix blame between
18 adults who are professionals and where blame is not
19 an issue.

20 And it wouldn't make any difference
21 where I found fault. That does not resolve the
22 problem that the court has, nor does it aid the
23 defendant, which is the purpose of what we are
24 trying to do here and that is to put the defendant

1 in the best posture that he can be in to receive
2 materials which he is entitled to, if in fact he is
3 entitled to them.

4 I am going to ask the sheriff to
5 bring in the jury. Those persons who are seated on
6 the left side of the courtroom, on my left, will
7 please move to the right side of the courtroom, on
8 my right. The jury will then occupy the other
9 portion of the courtroom.

10 When the jury has been seated in the
11 jury box, then the court will reconvene, commence
12 jury selection.

13 MS. PLACEK: Before you do, Judge, if it
14 pleases the court, because of the court's ruling,
15 because of the actions, whatever you want to say,
16 Judge, this case now takes on a different issue
17 which I have discussed, time and time again, with
18 my client, anticipating possibly certain rulings on
19 certain motions.

20 We agree on certain rulings; we
21 disagree on others. Because, with all due respect
22 and with exception taken to the court, in
23 dealing -- And I take it that the court had
24 denied my motion for a continuance....

1 THE COURT: If that is what you made.

2 MS. PLACEK: Yes, Judge.

3 THE COURT: If that was a motion for a
4 continuance, it is denied.

5 MS. PLACEK: (Continuing.) -- because this
6 case now takes the aspect of, quite frankly, the
7 Defense not knowing, because the State failed to
8 produce their witness until tomorrow, and I take it
9 that the court is proceeding with jury selection,
10 there is a real possibility that we might go into
11 evidence today, and I take it, since the State
12 answers ready, they have their witnesses here, and
13 since with a jury, the factual credibility of
14 Defense Counsel and what is needed to be shown from
15 the get-go, the simple strategy of the opening
16 statement has somewhat, has been handcuffed to this
17 defendant.

18 And, as I stated, Mr. Hendricks and
19 I have discussed this time and time again, what
20 happens, would happen if the court made certain
21 rulings.

22 And, also, as I stated yesterday, as
23 to the exceptions made when we asked the court to
24 limit the State from in fact arguing in opening

1 statement, the evidence dealing, where the court
2 ruled on certain motions in limine, although asking
3 them, as it is my understanding, to in fact lay
4 proper foundation during the evidenciary matter and
5 the court being an experienced trial lawyer,
6 knowing in fact that once it is heard, especially
7 from able counsel, and such articulation, once that
8 it is heard, often is hard to erase.

9 The court, through its action and
10 its ruling, has turned this, that aspect of this
11 case to where defendant's strategy becomes, he must
12 fight it on the legal issues, therefore, for these
13 reasons stated, we are at this time prepared to
14 waive and we are answering ready.

15 THE COURT: Send for the jury.

16 MS. PLACEK: Judge, we are waiving the jury.

17 THE COURT: You are waiving your right to
18 trial by jury?

19 MS. PLACEK: That is exactly it. Based on
20 rulings of the court, it now becomes a different
21 complexion.

22 THE COURT: Mr. Hendricks, would you please
23 step up?

24 (Short pause.)

1 THE COURT: Your attorney informs me, Mr.
2 Hendricks, that you desire to waive your right to
3 trial by a jury and to be tried by the court.

4 Is that correct?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Before I can permit you to do
7 that, Mr. Hendricks, I am obligated to inform you
8 of certain rights that you have, determine that you
9 understand your rights and that you are waiving
10 your rights freely and voluntarily.

11 If, at anytime, during the course of
12 our conversation, you should change your mind and
13 decide that you do not wish to be tried by the
14 court, if you bring that to my attention, I will
15 discontinue the conversation with you and your
16 matter will be set for trial by a jury.

17 Also, if I say something to you that
18 you don't understand, if you bring that to my
19 attention, I will restate it or rephrase it until
20 you do understand it.

21 Do you understand?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Mr. Hendricks, you have a
24 constitutional right to a trial by a jury in this

1 case. A jury is composed of 12 persons who reside
2 in Cook County. They would be selected by your
3 attorney and the state's attorney. And it would
4 become their obligation to listen to all the
5 evidence produced by the State, in support of the
6 charges against you.

7 Your attorney would be given an
8 opportunity to cross examine each and every witness
9 called on behalf of the State, with a view towards
10 bringing out facts favorable to you.

11 You also have a right to call
12 witnesses on your own behalf. And I will assist
13 you in that regard by issuing subpoenas to compel
14 the attendance of witnesses on your behalf.

15 You, yourself, have a right to
16 testify, if you so desire. On the other hand, if
17 you chose not to testify, for any reason
18 whatsoever, the jury would not be permitted to take
19 that into consideration in determining whether or
20 not the State's evidence proved your case, proved
21 your guilt beyond a reasonable doubt.

22 After the jury has heard the
23 evidence, the arguments of the attorneys and my
24 instructions as to the law that applies to your

1 case, the jury would retire to deliberate and
2 determine whether or not the State's evidence
3 proved your guilt beyond a reasonable doubt.

4 Before the jury would be permitted
5 to return a verdict finding you guilty, all 12
6 jurors, each one, must agree that the State's
7 evidence proved your guilt beyond a reasonable
8 doubt.

9 Do you understand?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: On the other hand, Mr. Hendricks,
12 if you waive your right to trial by a jury, then I,
13 and I alone, will determine whether or not the
14 State's evidence proved your guilt beyond a
15 reasonable doubt.

16 Do you understand?

17 THE DEFENDANT: I understand.

18 THE COURT: Jury waiver?

19 MS. PLACEK: Judge, for the purose of the
20 record, may I just ask the defendant one question
21 for the waiver?

22 THE COURT: You may.

23 MS. PLACEK: Thank you.

24 Mr. Hendricks, I discussed what

1 would happen if the court made certain rulings; you
2 heard my representation?

3 THE DEFENDANT: Yes.

4 MS. PLACEK: Prior to waiving, correct?

5 THE DEFENDANT: Yes, ma'am.

6 MS. PLACEK: And you are making your waiver of
7 the jury, based on the representation I made to the
8 court, because we have discussed this many times,
9 correct?

10 THE DEFENDANT: Yes.

11 MS. PLACEK: It is on this condition that you
12 are making the jury waiver, correct?

13 THE DEFENDANT: Yes.

14 MS. PLACEK: Sign this. (Indicating.)

15 THE COURT: Mr. Hendricks, if you are saying
16 to me that you are waiving your right to trial by
17 jury only because of the rulings that the court has
18 made, I will not accept your jury waiver.

19 MS. PLACEK: He is making --

20 THE COURT: Excuse me.

21 Your jury waiver must be freely and
22 voluntarily done. It has nothing to do with
23 whether or not the court has made rulings that you
24 find proper or improper or anything of that nature.

1 loud enough --

2 THE COURT: The defendant has a right to
3 consult with his attorney, take that advise. I
4 have no complaints on that.

5 MR. MURPHY: All right, Judge.

6 MS. PLACEK: Your Honor, for the purpose of
7 the record, in my presence and the court's
8 presence, Mr. Hendricks has in fact signed a jury
9 waiver. I am tendering same to the court, asking
10 it become part of the record. (Indicating.)

11 THE COURT: Does your signature appear on this
12 jury waiver form, Mr. Hendricks? (Indicating.)

13 THE DEFENDANT: Yes, sir.

14 THE COURT: When you signed this document, was
15 it your intention to give up and relinquish your
16 right to a trial by a jury?

17 THE DEFENDANT: Yes, it was, sir.

18 THE COURT: Has anyone forced you, threatened
19 you or coerced you in anyway, including the court,
20 by anything that I have said or done, that caused
21 you to waive your right to trial by a jury?

22 THE DEFENDANT: No, sir.

23 THE COURT: Are you waiving your right to
24 trial by a jury, freely and voluntarily?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Let the record reflect that the
3 defendant has been advised of his constitutional
4 right to trial by a jury. The court finds that he
5 understands his right to trial by a jury and that
6 he is waiving his right to trial by a jury freely
7 and voluntarily.

8 MS. PLACEK: Thank you, your Honor. May the
9 defendant --

10 THE COURT: The cause is recessed until 1:30.

11 MR. MURPHY: Judge, may I address the court?

12 THE COURT: Yes.

13 MR. MURPHY: Judge, we are not ready to
14 proceed today as to a bench trial. We anticipated
15 we would spend the whole day today selecting a jury
16 and consequently we have not had our witnesses, our
17 witnesses are not in the building.

18 THE COURT: Are you able to get any of your
19 witnesses together for this afternoon?

20 MR. MURPHY: Your Honor, I don't think we can
21 because most of the witnesses are working, are in
22 positions where it is difficult for us to reach
23 them.

24 Judge, we may have one witness we

1 can put on, it was a witness who was here earlier
2 this morning. I don't know if he is still here or
3 not. I have to go upstairs and check.

4 THE COURT: Well, if you can; otherwise, I
5 will continue this case until tomorrow but I don't
6 wants to keep Counsel here until 1:00 o'clock in
7 the afternoon.

8 MS. PLACEK: I have no problem with that,
9 Judge. I have kept the court waiting enough times,
10 waiting for me, and Counsel for the State, so I am
11 all right.

12 MR. MURPHY: Judge, I can go upstairs.

13 THE COURT: If we can start the trial today,
14 fine. If we can't, then I will put it over until
15 tomorrow. I understand that the reasonable
16 expectation was that we would not reach evidence
17 stage today and I didn't expect for that to happen
18 either, so we can just put it over, if we have to,
19 until tomorrow. You can be ready by tomorrow?

20 MR. MURPHY: Yes, Judge.

21 THE COURT: All right, Mr. Sheriff, please
22 bring the jurors into open court.

23 MS. PLACEK: Does the court wish to have us
24 present?

1 THE COURT: Not unless you want to.

2 MS. PLACEK: I prefer not to, Judge.

3 THE COURT: You can take the defendant back to
4 the lockup. Please, bring the jury in.

5 (Whereupon the following
6 proceedings were held
7 within the presence and
8 hearing of the prospective
9 jurors.)

10 THE COURT: Those ladies and gentlemen who are
11 in the jury box, can resume their seats in the jury
12 box momentarily, well, they can stay out there,
13 since they are out there anyway.

14 Gentlemen, you may be seated.

15 MR. MURPHY: Thank you, your Honor.

16 THE COURT: Good morning, ladies and
17 gentlemen.

18 Ladies and gentlemen, as you know, a
19 person charged with the commission of a criminal
20 offense has a constitutional right to a trial by a
21 jury. He or she also has a right to waive the
22 constitutional right to trial by a jury and be
23 tried by the court.

24 After consultation with his attorney

1 this morning, Mr. Hendricks has elected to waive
2 his right to trial by a jury and to be tried by the
3 court.

4 Consequently, your services as
5 jurors will not be needed and I am going to
6 discharge you from further jury service for this
7 term of your service.

8 When you leave here, after you have
9 received your compensation, such as it is, from the
10 sheriff, you are free to return to your respective
11 homes, places of business or wherever it is you
12 choose to go.

13 Before I discharge you from further
14 jury service, on behalf of the Chief Judge of the
15 Circuit Court of Cook County and the members of my
16 courtroom staff, which include my clerk, the deputy
17 sheriffs, the court reporter, the assistant state's
18 attorneys, and the defense lawyers, who are not
19 here presently, join in thanking you for your jury
20 service, notwithstanding the fact that you will not
21 be serving on a jury for a term.

22 Nonetheless, your service is an
23 invaluable, an indispensable part of our system of
24 justice. It always sort of annoys me to find

1 people who make somewhat of an asserted effort,
2 from time to time, to avoid the obligation of jury
3 service.

4 And, yet, it is also true that
5 almost every person that I meet, who is old enough
6 to have an opinion about the criminal justice
7 system, in fact has one, pro or con. And the
8 opinions that they express sometimes run the full
9 gamut, from extremely bad to extremely good.

10 And the fact of the matter is that
11 the system that we have and that we say we want to
12 preserve, is no better and can be no better than
13 the persons who have input into it, including
14 jurors. Our system of law is predicated upon the
15 proposition that a jury will represent a cross
16 section of the community in which we reside.

17 That cross section relates to sex,
18 race, ethnicity, education, occupation,
19 geographical location. All of those things are
20 part of the picture that should go into being a
21 representative jury.

22 And when people refuse to
23 participate in the jury service, they eschew that
24 mixture and dilute the administration of justice.

1 And so it is, no wonder that sometimes the results
2 that we receive are unsatisfactory to us, but at
3 the same time, many of us have neglected to perform
4 the simple task of service as jurors.

5 I am happy to say that you are not
6 one of those persons out there who find it is
7 extremely expedient to avoid this service.

8 It is for those reasons that I take
9 these few minutes to thank you for your service, to
10 hope that in the very near future, each of you will
11 be again called for jury service, that you will
12 respond and that you will have an opportunity to
13 serve on a jury.

14 It can be a very educational
15 experience, a very rewarding experience and a very
16 frustrating experience, all in one, at one time.
17 Those kinds of emotions can overcome you in your
18 jury service.

19 Those of you who have not had jury
20 service or those of you who have not had jury
21 service in a criminal courtroom will be surprised
22 as to how your attitudes and your perception of the
23 justice system can change, once you have served on
24 a jury.

1 Ladies and gentlemen, thank you for
2 your service. You are free to leave. You are
3 discharged from further jury service in this case.
4 Have a good afternoon.

5 (Whereupon the proceedings
6 in the above entitled cause
7 were held in abeyance and
8 called a later time the
9 same day.)

10 THE CLERK: Jerome Hendricks.

11 (Defendant present.)

12 THE COURT: Miss Placek, I am told that the
13 State can't procure any witnesses for today.

14 MR. CASSIDY: Correct.

15 MS. PLACEK: Fine, Judge.

16 THE COURT: I might also inform you, Miss
17 Placek, that we will not likely hear evidence on
18 this case a Friday.

19 MS. PLACEK: That is fine with me, Judge.

20 THE COURT: It looks like we have a short call
21 tomorrow.

22 MS. PLACEK: I have disappointed the court on
23 trial. I would appreciate if we would start
24 tomorrow.

1 THE COURT: Well, the question is what time.
2 I don't want to have you sit around here
3 needlessly.

4 MS. PLACEK: I will serve, Judge, as I have
5 often said to you.

6 MR. CASSIDY: The afternoon, 1:30 or so?

7 MS. PLACEK: I take it though, the witness
8 spoke of coming in tomorrow, won't be coming in,
9 Judge?

10 THE COURT: I don't know. We will see what
11 tomorrow brings.

12 MS. PLACEK: Then why don't we start a little
13 early for that witness?

14 THE COURT: The problem that I am having
15 early, I would like to start you at 9:00 o'clock
16 but I have what may turn out to be some lengthy
17 hearings in the morning. I will invite you in at
18 11:00 o'clock.

19 MS. PLACEK: I will be here.

20 THE COURT: But whether we can get you started
21 before the noon recess, I don't know.

22 MR. MURPHY: Judge, I would ask you set it
23 over to after lunch.

24 THE COURT: Set it at 1:00 o'clock and we can

20

1 start. She will be here at 1:00 o'clock?

2 MS. PLACEK: I will be here.

3 THE COURT: By agreement.

4 MS. PLACEK: Just so the court is clear: We
5 are still making a request for the witness, Judge,
6 under the Brady motion.

7 THE COURT: I am fully aware of that.

8 By agreement, February 7th.

9 MS. PLACEK: Thank you, Judge.

10 (Whereupon the proceedings
11 in the above entitled cause
12 were continued to the 7th
13 day of February, A.D.
14 1991.)

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1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF COOK)

4 IN THE CIRCUIT COURT OF COOK COUNTY
5 COUNTY DEPARTMENT-CRIMINAL DIVISION

6 THE PEOPLE OF THE)
7 STATE OF ILLINOIS)
8 -v-) No. 88-CR-12517
9 JEROME HENDRICKS)

10 REPORT OF PROCEEDINGS

11 BE IT REMEMBERED, that on the 7th day
12 of February, A.D., 1991, this matter came on for
13 hearing before the Honorable LEO HOLT, Judge of said
14 Court.

15 APPEARANCES:

16 HON. JACK O'MALLEY,
17 State's Attorney of Cook County, By

18 MR. JOHN MURPHY AND
19 MR. SCOTT CASSIDY,
20 Assistant State's Attorneys,
on behalf of the People;

21 MR. RANDOLPH STONE,
22 Public Defender of Cook County, By

23 MS. MARIJANE PLACEK AND
24 MR. VINCENT LUFRANO,
Assistant Public Defenders,
on behalf of the Defendant.

1 THE CLERK: Sheet 6, Line 1, Jerome Hendricks.

2 MR. MURPHY: Could we have a few minutes? Mr.
3 Cassidy will be down momentarily.

4 THE COURT: It will be called momentarily.

5 MR. MURPHY: He has been involved in this other
6 matter all morning and it will give me an opportunity
7 to speak to the witnesses.

8 (Whereupon, there was a
9 brief pause in proceedings.

10 THE COURT: Are we ready now, Mr. Murphy?

11 MR. MURPHY: Yes, Judge.

12 THE COURT: State, I will hear your opening
13 statement.

14 MR. LUFRANO: Before opening, there is a Brady
15 motion pending.

16 THE COURT: I am fully aware of that and I am
17 fully aware of that since I was not duly advised to
18 the contrary that the witness that would be necessary
19 for that motion is not in Court.

20 MR. LUFRANO: He is in Court, your Honor. He
21 is present.

22 MR. MURPHY: He is present. We gave the
23 Defense Attorneys an opportunity to interview him.

24 MR. LUFRANO: If I might address him, I did

1 talk to him. While I was talking to him, Mr.
2 Murphy came in and in the middle, there were suggestions
3 as to the answers to my questions, so I cut the questions
4 short.

5 THE COURT: What do you want me to do about
6 your failure to complete your interview?

7 MR. LUPRANO: I don't know. We would ask
8 that the evidentiary hearing commence and that the
9 Court call Mr. -- Call Officer Kaddigen as its witness.

10 We have filed a motion, there is
11 nothing in writing in response to it and the problems
12 with the report can be resolved by the Officer, himself.

13 MR. MURPHY: Judge, I have no objection to
14 Counsel interviewing a witness and I take issue with
15 him saying that I suggested any answer to the
16 witness.

17 He has an opportunity to interview
18 that witness, we brought him here specifically for
19 the purpose of allowing the Defense Attorneys to
20 interview the witness and we object to anykind of a
21 deposition of a potential witness on this case.

22 THE COURT: Well, I don't know whether it's
23 a deposition they are talking about, they are talking
24 about voir dire examination of a witness in order to

1 determine whether or not he is in possession of
2 Brady material.

3 He is going to be called as a witness
4 today?

5 MR. MURPHY: Not by us, Judge.

6 THE COURT: How many witnesses do you have
7 that you intend to call today?

8 MR. MURPHY: Judge, if there is enough time,
9 we hope to put five witnesses on today.

10 THE COURT: Do you expect that to take all
11 of the balance of the court day?

12 MR. MURPHY: I really don't know, Judge. It
13 depends on -- It really depends on the length of the
14 cross examination and I can't anticipate that.

15 THE COURT: What is the urgency, Mr. Lufrano,
16 of calling that witness at this time, particularly
17 since we are now involved in a bench trial and
18 particularly since I will give you whatever time you
19 need to perfect any investigation if I determine
20 that there is material that should be given to you.

21 What is the urgency of it now?

22 MS. PLACEK: If the Court please, one of the
23 reasons for the urgency in this matter stems from, first
24 of all, the originalness of the Brady motion.

1 We have asked for several
2 remedies, Judge, in fact to be had. The remedies,
3 Judge, go all the way from dismissal to, in fact, a
4 motion in limine barring the State from using certain
5 material.

6 Your Honor, the proposition
7 presented by this witness --

8 THE COURT: You are not answering my question.

9 MS. PLACER: I am about to, Judge.

10 THE COURT: Please get to it.

11 MS. PLACER: The particular point that I am
12 making is strictly this, Judge. In view of judicial
13 economy, quite frankly, if the best happened on
14 behalf of the Defendant, that is if the Court would
15 be so inclined to grant a Brady motion with the
16 ultimate remedy, there will be no need for calling any
17 other witnesses.

18 And secondly, Judge, one of the
19 reasons this motion, and I suggest, quite frankly,
20 be heard before the trial is simply this, or at
21 least a calling of this gentleman as a Court's witness,
22 is that there would be objections as to foundational
23 laying of what we, and I am speaking of the Defendant,
24 anticipates witnesses to testify in line with the

1 State's case.

2 This is based off of the motions
3 which were heard before your Honor. It is for this reason
4 that we would ask the Court that this witness be
5 called first, since I know the Court is eager to move
6 on this trial.

7 If, in fact, the Court chooses
8 not to call this witness first and progress, because
9 of the rather long schedule and because I have no
10 wish to inconvenience him, what I essentially would be
11 asking is that this Court instruct the witness to come
12 back on a later date.

13 THE COURT: The witness is not going to be ex-
14 cused from disclosing whatever information he has
15 relative to this problem.

16 Can that witness be available
17 tomorrow? That is the only work that we will be
18 doing on this case tomorrow, anyway, and I
19 will hear his testimony tomorrow as it relates to that
20 one issue.

21 MR. CASSIDY: You are going to call him as a
22 witness, Judge?

23 THE COURT: Someone is going to call him as a
24 witness, I don't mean the Court's witness, but someone

1 is going to help establish the factual predicate for
2 what is meant by his statements in that police
3 report, whether it's Brady material or not.

4 MR. CASSIDY: Let me ask you this. Counsel
5 used the word urgency all of a sudden, this is
6 important. The Court already said they have known
7 about it before we knew about it. Since it's
8 urgent, the witness is here, we are ready and I can't
9 see the problem, let Defense Counsel talk to the
10 witness, let him hear what the witness has to say,
11 then let them bring in a motion.

12 Almost a year ago when they got the
13 report--

14 MR. LUFRANO: Objection to what we got a year
15 ago.

16 MR. CASSIDY: I think that would be the proper
17 thing to do. They want to have the witness deposed,
18 bring him out in open Court and have a deposition,
19 and I don't think, at this point, it's appropriate.

20 So I request they talk to the witness,
21 let them make the motion more specific.

22 MR. LUFRANO: If I might clarify the record.

23 Counsel is indicating that we had
24 it before they got it. He used the plural, we, I am

1 presuming he meant -- and I ask the record to reflect
2 that we, the two State's Attorneys here, prior
3 State's Attorneys are the people who tendered it out.

4 THE COURT: Mr. Lufrano, it doesn't make any
5 difference one way or the other how that document
6 came into your possession. You got it and nothing
7 was done with it until we got ready to go to trial.

8 MS. PLACEK: Not exactly correct, Judge.

9 THE COURT: Ms. Placek, please, if you wish to
10 interrupt me, that is all right, I will just let you tell
11 me what I want to say and I won't say anything in
12 response.

13 MS. PLACEK: I apologize. I withdraw.

14 THE COURT: No motion has been filed to deal
15 with that problem until we were about to commence jury
16 selection.

17 Therefore, I cannot consider it
18 to be of great urgency. If it was, you should have
19 brought it up, it would seem to me you would have
20 brought it up quite some time ago.

21 I don't understand, either, the
22 concept of you, have the witness available to you to
23 talk to, but you won't talk to him and you tell me
24 that that is because the State's Attorney was suggesting

1 the answers that the witness should make, and I
2 presume that you asked me, then, to resolve the
3 question of whether or not you are accurate in what the
4 State's Attorney was saying or whether the State's
5 Attorney is accurate in what he is saying, and I won't
6 go into that because I don't know how to do that.

7 If you have the burden on that
8 and you ask me to make that resolution, you failed,
9 because I find that, at best, that the evidence was
10 equally balanced.

11 Now, it seems to me that to
12 exercise what options you have and they all fall apart
13 on you, but we will proceed in another way, but now
14 you will assist the Court in resolving this problem,
15 which you have an obligation to do and until that is
16 done, we are going to proceed.

17 State, I will hear your opening
18 statement, if any.

19 MR. MURPHY: Thank you, Judge.

20 Before I present opening argument,
21 may I release the Officer, then?

22 MS. PLACEK: How can we be two places at
23 once, Judge, unless the State --

24 THE COURT: Are you going to bring that Officer

1 back tomorrow for a possible hearing?

2 MR. MURPHY: Judge --

3 THE COURT: Then you can release him.

4 MR. CASSIDY: To be interviewed first and
5 then --

6 THE COURT: He is not going to be interviewed
7 today.

8 MR. CASSIDY: I understand, Judge. Just so
9 I can tell the Officer what the schedule is.

10 THE COURT: He may be interviewed and he may
11 also be questioned in Court.

12 MR. CASSIDY: What time, Counsel?

13 MR. PLACEK: I was here at 10:00, Judge,
14 whatever time is convenient for the State.

15 THE COURT: We have a big call. 1:00 o'clock.

16 MR. CASSIDY: Okay.

17 THE COURT: I will hear your opening statement,
18 Mr. Murphy.

19 MR. MURPHY: Thank you, your Honor.
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OPENING STATEMENT

BY

MR. MURPHY:

MR. MURPHY: Thank you, your Honor.

Your Honor, I believe the evidence in this case will show that on the date of August 1st of 1988 the victim in this case, Denise Johnson, was 12 years old.

On that date she went to her cousin's house, her cousin, Yolanda Hill, and also to her cousin Karlana McCoy's house to babysit.

The evidence will show that she was at the address of 11720 Princeton. During that day of August 1st of 1988 she babysat for her cousin.

During the evening hours, at some point, she was sitting on the porch. The evidence will show that while she was sitting on the porch, she was approached by an individual who we will identify as the Defendant, Jerome Hendricks.

That a conversation occurred between Denise Johnson and Jerome Hendricks. I believe the evidence in this case will show that the Defendant, at this time, was attempting to come on to the victim. The Defendant was told to leave the

1 porch.

2 The evidence in this case will also
3 show that later that evening, the victim was seen
4 with the Defendant.

5 Additionally, the evidence will
6 show that the victim was seen near the home of the
7 Defendant.

8 The evidence will also show
9 in this case, Judge, that on the evening hours of August
10 1st of 1988, the victim disappeared. Her family
11 and her friends looked for her that night, looked through --
12 looked for her in the early morning up to the early
13 morning hours of August 2nd.

14 Police were contacted and she
15 was not found.

16 The evidence, your Honor, will
17 also show on August 8th of 1988, approximately
18 seven days later, a body of a young female was found
19 in a garage.

20 The evidence will show that
21 that garage is next door to where the Defendant lived
22 at the time.

23 The evidence will also show
24 that that garage is behind an abandoned house, abandoned

1 at the time.

2 The evidence in this case will
3 show that the body that was recovered was, in fact,
4 the body of Denise Johnson and at the time, her body
5 was severely decomposed, that there were ligatures on
6 her body, there were ligatures which were, in fact,
7 her shoestrings, two shoestrings tied both of her
8 hands together behind her back.

9 Another shoestring was around
10 her neck and also her top was tied around her neck
11 or the upper part of her neck as well, that her
12 pants were partially down.

13 Later that day, your Honor,
14 the Defendant was questioned by Area 2 Detectives and
15 initially the Defendant told the police, claimed that
16 he had never seen the victim that night after 6:00
17 o'clock in the evening.

18 the evidence will show that,
19 in fact, the Defendant told the police that he was
20 somewhere else at the time, that he had no contact with
21 the victim.

22 Your Honor, you will hear during
23 this case that Area 2 Detectives listened to what
24 the Defendant said, checked his story and found that,

1 in fact, it wasn't true.

2 That the Defendant was confronted
3 with the fact that he had lied to the police
4 about his whereabouts on the night of August 1st of
5 1988 and that after the Defendant had been confronted
6 with the fact that he lied to the police, he then
7 changed his story and admitted that he was with the
8 victim.

9 Your Honor will hear the
10 Defendant gives the police various stories at this
11 time. One story, he was with the victim, but there
12 was no sexual contact.

13 The Defendant then changed his
14 story and said that he was with the victim and that
15 there was sexual contact.

16 The Court will then hear the
17 Defendant went from admitting there was sexual contact
18 to giving the police some detailed statement about
19 sexual encounters that he had with the victim, Denise
20 Johnson.

21 Judge, you will hear ultimately
22 the Defendant gave the police and an Assistant State's
23 Attorney a statement which was put in writing and it was
24 signed by the Defendant.

1 May we have a moment, Judge?

2 Your Honor will hear during the
3 course of this trial, specifically about what
4 the Defendant said in that statement to the police and
5 to an Assistant State's Attorney and I submit to
6 your Honor when you hear that statement, you will
7 be able to make a number of determinations about
8 the Defendant's actions on that night and, your
9 Honor, I would like to indicate to you what I believe
10 a portion of that statement of fact says and I will
11 read from this statement.

12 Mr. Hendricks said at this one
13 point the girl wanted to pull on something, that it was
14 around her face as if she wanted him to ride her like
15 a horse.

16 Mr. Hendricks stated that he
17 didn't know what it was and it could have been a
18 rope or her shoelace.

19 Mr. Hendricks said that he did
20 not pull on it, though, because he didn't get into it.

21 Mr. Hendricks stated that she
22 had her hands balled up like she was desperate.

23 Mr. Hendricks stated he didn't
24 say anything to her and that he was grabbing her around

1 her waist and shoulder.

2 MR. LUFRANO: Objection to reading what he
3 intends to put into evidence as an opening statement.

4 THE COURT: Overruled.

5 This is what he expects the
6 evidence to show.

7 MR. MURPHY: And in that statement, the
8 Defendant went on to state, Mr. Hendricks stated that
9 he had come and that he did come inside of the girl.

10 After he came, Mr. Hendricks stated
11 he pulled up his pants and left and that he did not
12 look back to see the girl.

13 He further stated that he knew
14 that she did not come out with him.

15 Mr. Hendricks further stated that
16 on Wednesday or Thursday, his family was complaining
17 about a smell coming from the garage and he thought
18 that the cat killed a rat.

19 Mr. Hendricks stated that he was
20 cleaning up around the yard and that he was going to
21 pull some garbage and branches in the garage, when he
22 went into the garage, Mr. Hendricks stated that he
23 saw something that looked like a body and went over
24 to see what it was.

1 He said that it was the same girl
2 that he had sex with and the shirt was still in the
3 same position, over her head.

4 Your Honor, I believe during the
5 course of this trial you will receive in evidence
6 a statement stating that, along with other information
7 about the night of August 1st of 1988.

8 And I submit, your Honor, that
9 at the conclusion of this trial, that you will
10 determine from the statement, from the evidence
11 about the Defendant's actions on the night of August
12 1st of 1988 and the various statements that the
13 Defendant gave to the police, that the Defendant did
14 commit the offenses for which he is charged.

15 One other point, your Honor. I
16 would ask you in this case, and I know your Honor is
17 an experienced Judge and is experienced in the
18 laws of evidence, the rules of evidence, I ask your
19 Honor only to consider evidence in this particular
20 case, and I know you will, not what I believe the
21 Defense will do, which is attempt to attack the
22 victim, attack the police with evidence that doesn't
23 exist, and I am confident, your Honor, at the conclusion
24 of this trial, when you consider only the evidence
in this case, that your finding will be guilty.

1 Thank you.

2 THE COURT: Ms. Placek?

3 OPENING STATEMENT

4 BY

5 MS. PLACEK:

6 MS. PLACEK: Very briefly, your Honor, we
7 already made our objections, what we feel is the factual
8 limitations of this Court, matters dealing with the
9 motion in limine, that being, quite frankly, often
10 bench trials are considered by Defendants as somewhat
11 of a slow plea to get to the Appellate Court to
12 retry the motions.

13 Quite frankly, in the case of
14 Jerome Hendricks, Judge, the Defendant waives no
15 rights and waives nothing but the flag.

16 The issue in this case is somewhat
17 exemplified by what the State just read, because the
18 legal issue and written memorandum, which will be
19 presented to the Court after the State's case, will
20 show that, at best, the only thing that the State can
21 convict Mr. Hendricks of is, quite frankly, criminal
22 sexual abuse based upon the fact of having sex with a
23 minor.

24 If I might be allowed to go into

1 the evidence and the argument, the evidence in this
2 case, and the memorandum dealing with it will
3 be, quite frankly, that the only thing that the State
4 has is, in fact, one, the disappearance of a young
5 girl.

6
7 Two, that, in fact, on August
8 8th the body of the young girl was found in a garage.
9 And as the State's Attorney stated, the garage was
10 next door to, in fact, the home of Jerome Hendricks.

11 Second, they have a statement
12 given by Mr. Hendricks. Now, I am sure that the
13 State's Attorney, in no way, wishes to falsify or
14 mislead the Court on the evidence, but quite
15 frankly, the statement which was read, and the
16 statement which spoke of sexual intercourse and the
17 statement which, in fact, speaks of whatever action
18 Mr. Hendricks had with this young lady, speaks of
19 the date of August 1st, 1988.

20 The reason this becomes key is
21 because, as the Court knows, and what will be
22 stated in our memorandum, that in order for the
23 Court to find this Defendant guilty, the State must
24 establish the corpus delicti of the crime beyond a
reasonable doubt.

1 The simplicity of this matter
2 and the problem that the State will have is this.

3 No. 1, we believe the evidence
4 will show that this girl was a chronic run-away. The
5 reason this becomes valid is, first of all, because it
6 will viciate the issue that possibly Mr. Hendricks
7 was the last person to see this young lady alive.

8 We believe that we will show
9 that the police didn't even believe that Mr. Hendricks
10 was the last person to see this young lady alive because
11 a youth officer took a member of her family out days
12 after her alleged disappearance and went looking
13 for her.

14 Second, we believe that the
15 evidence will show that even if the Court was to
16 accept the signed statement in the light most favorable
17 to the State, it, one, speaks of no murder. Two,
18 it speaks of no dead person. Three, it speaks of no
19 kidnapping, a charge in the indictment. Four, it
20 speaks of no forced sex.

21 Therefore, the aggravated criminal
22 assault and felony murder, based upon the same,
23 must also fail.

24 Basically, the argument is this.

1 There is only one person who
2 knew what happened at that garage and that person is
3 dead.

4 There will be no one else from
5 that witness stand who will talk about the instrumentality
6 of the death of this girl.

7 We will ask the Court to take
8 particular notice and pay particular attention to the
9 fact, the evidence from the pathologist as to
10 putrification and the date of death -- excuse me,
11 Judge, I am on medication, I get very dry-mouthed and
12 I get stumbling.

13 The point to that is that when the
14 Court hears the evidence, when the Court, in fact,
15 reads the law as suggested by the Defendant, the Court
16 will see that the only thing that the Defendant can,
17 in fact, be convicted of is the aggravated criminal
18 sexual assault, based upon having sex with a minor.

19 Thank you, Judge.

20 THE COURT: Call your first witness, State.

21 MR. CASSIDY: The People would call Mike Gatto.

22 (Witness sworn.)

23 THE COURT: You may be seated, sir. That
24 microphone is on. If you pull it over in front of you,

1 speak directly into it, keep your voice up so
2 everyone will be able to hear you.

3 You may proceed, Mr. Murphy.

4 MR. MURPHY: Thank you, Judge.
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1 MICHAEL GATTO,
2 called as a witness herein, after having been first
3 duly sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MR. MURPHY:

7 Q Would you please state your name and
8 spell your last name, please?

9 A Mike Gatto, G-a-t-t-o.

10 Q And, Mike, by whom are you employed?

11 A Cook County Medical Examiner's.

12 Q And how long have you been employed
13 there?

14 A Nine years.

15 Q And what position do you have there?

16 A Chief X-Ray Tech.

17 Q And could you describe what your duties
18 are as Chief X-Ray Tech?

19 A Take care of the X-Ray Department,
20 take X-Rays.

21 Q And, Mike, could you tell Judge Holt
22 what your education is in this area?

23 A I graduated Henrotin Hospital in '80,
24 Cook County Radiology Department

1 Q And in addition to that background,
2 do you have any specialized training in the area of
3 taking X-Rays?

4 A I keep up my CE credits on an annual
5 basis.

6 Q And what was your major field in
7 college?

8 A Science.

9 Q Radiology?

10 Have you gone through any
11 particular courses in addition to your college
12 training?

13 A Recently going to Moraine Valley
14 to receive my Bachelor's Degree.

15 Q In what is that?

16 A In Radiology.

17 Q Now, Mike, have you ever attended any --
18 Strike that.

19 Were you on duty on the date of
20 August 9th of 1988?

21 A Yes.

22 Q And what was your assignment that date?

23 A All X-Rays that came in that day.

24 Q And you were working at the Medical

1 Examiner's Office, is that right?

2 A Right.

3 Q And on that particular day, did you
4 have an occasion to handle X-Rays of a particular
5 case?

6 A The one in question, yes.

7 Q What is the case number?

8 A 28 August '88.

9 Q Could you tell Judge Holt what is the
10 name of the victim in this case?

11 MS. PLACEK: Objection.

12 THE COURT: Objection is sustained.

13 MR. MURPHY: Q Mike, is that 288 or 6288?

14 THE COURT: Objection is sustained. Leading.

15 MR. MURPHY: May I approach, Judge?

16 THE COURT: You may.

17 MR. MURPHY: Q Mike, I am going to show you
18 what is marked as People's Exhibit No. 1 for
19 identification purposes.

20 I ask you to look at this photo
21 and tell me if you recognize what is portrayed in
22 that photograph?

23 What do you recognize that to be?

24 A The deceased that I X-Rayed.

1 Q What is the case number on that
2 particular case?

3 MS. PLACEK: Objection. The exhibit speaks
4 for itself.

5 THE COURT: Overruled.

6 THE WITNESS: 8262, August, '88.

7 MR. MURPHY: Q Does that photograph truly
8 and accurately portray the condition of the person
9 who you X-Rayed?

10 A Yes.

11 Q Thank you.

12 Can you describe what you did
13 with reference to this particular victim? Or person?

14 A When they came in, I put her on the X-Ray
15 table, set up the equipment.

16 Q What equipment did you set up?

17 A General Electric X-Ray Unit.

18 Q What did you do, then?

19 A X-Rayed the body and then put the
20 cassettes or took the X-Ray cassettes into the darkroom
21 and processed the films.

22 Q Now, Mike, could you describe the
23 X-Ray machine to Judge Holt?

24 A G.E. X-Ray Unit, that is like an X-Ray

1 camera, that it takes the photographs or gives the
2 exposure to make the photographs.

3 Q You made reference to a cassette. What
4 is a cassette?

5 A A cassette is a film holder that has
6 both the film and the I.D. blocker.

7 Q And do you use an identification
8 assembly in this particular X-Ray machine?

9 A Yes.

10 Q Could you describe that to Judge Holt?

11 A The I.D. plate is for name, case number
12 and our initials.

13 Q And did you use one in each of the
14 X-Rays you took in this particular case?

15 A Yes.

16 Q And what is the purpose of using it,
17 an identification plate?

18 MS. PLACEK: Objection.

19 THE COURT: Overruled.

20 THE WITNESS: So we know one case from
21 another, one deceased from another.

22 MR. MURPHY: Q Thank you.

23 And what was the condition of
24 the X-Ray machine that you used on August 9th of

1 1988?

2 A Excellent.

3 Q And how do you know that?

4 A Well, every morning we use it and if it
5 has to make an X-Ray, if it doesn't work, it will not
6 come up with a suitable radiograph.

7 Q Was it working properly that day?

8 A Yes.

9 Q And, in fact, in addition to that, is
10 your X-Ray machine periodically inspected?

11 A Yes. Annually the Illinois Department
12 of Safety comes out and checks it.

13 Q Was that done in this particular
14 case?

15 A Yes.

16 Q And can you describe approximately how
17 many X-Rays you took?

18 A I don't recall how many.

19 Q Did you take more than one?

20 A Yes.

21 Q What did you do after you took the
22 X-Rays?

23 A After we exposed the film to process
24 them, put them in the folder, put the name and number

1 and give them to the doctor.

2 Q First of all, you take the actual
3 photographs of the person with the machine?

4 A Yes, right.

5 Q After you take the photographs, after
6 you took the photographs in this particular case,
7 what did you do?

8 A After I, meaning the X-Rays?

9 Q Yes, the X-Ray?

10 A Took the cassettes into the darkroom,
11 took the film out of the cassettes, ran the film into
12 a processor.

13 When they come out of the processor,
14 we put the films into a jacket.

15 Q So, you develop the X-Rays, then, is that
16 correct?

17 A Yes.

18 Q And did you have any training in the
19 field of developing of X-Rays?

20 A Yes.

21 Q And where did you receive that
22 training?

23 A Same school, Henrotin.

24 MR. MURPHY: May I approach, Judge?

1 THE COURT: You may.

2 MR. MURPHY: Q Mike, I am going to ask you to
3 look at what has been marked as People's Exhibit No. 2,
4 3 and 4 and 5.

5 I am going to ask you to look at
6 them one at a time.

7 First look at People's Exhibit
8 No. 2 and tell me if you recognize what that is?

9 A Yes.

10 Q What is it?

11 A It's a post-mortem X-Ray of a pelvis.

12 Q Do you recognize that particular X-Ray?

13 A Yes.

14 Q How do you recognize it?

15 A By my initials and the case number.

16 Q And can you tell the Court specifically
17 what it is that you see on there that causes you
18 to recognize that particular X-Ray?

19 MR. LUFRANO: Objection. Strike the
20 objection.

21 MR. MURPHY: Q You said your initials?

22 A Yes.

23 Q Where are your initials?

24 A In the I.D. plate.

1 Q What else is in the I.D. plate besides
2 your initials?

3 MS. PLACEK: Objection.

4 THE COURT: Overruled.

5 THE WITNESS: The case number, name of the
6 deceased, the date of the examination and my initials.

7 MR. MURPHY: Q And what is that X-Ray of,
8 Mike?

9 MS. PLACEK: Objection, not qualified to
10 read.

11 THE COURT: What about that, Mr. Murphy?

12 MR. MURPHY: I think he is qualified to
13 testify what it is.

14 MS. PLACEK: He said it was an X-Ray. There
15 is no dispute as to that.

16 THE COURT: You are asking what is depicted
17 in there. Is he qualified to be a person who is
18 capable of reading X-Rays?

19 MR. MURPHY: Judge, I believe based on his
20 background, at this point, he is qualified to say what
21 is generally shown in the X-Ray. I am not asking him
22 to interpret the X-Ray.

23 MS. PLACEK: With all due respect, I think the
24 law in Illinois is that he might be able to take it, set

1 up the original foundation for whatever chain the
2 State is trying to use, but with all due respect to
3 the witness, I don't think he is qualified to read.

4 THE COURT: As I understand it, Mr. Murphy,
5 it is outside of his area of expertise.

6 At this point he may have the
7 expertise, but I don't think that you have asked
8 enough questions to demonstrate it.

9 Objection sustained.

10 MR. MURPHY: Q Michael, I am also going
11 to ask you to look at the next X-Ray, that would be
12 what is marked as People's Exhibit No. 3.

13 Do you recognize that particular
14 X-Ray?

15 A Yes.

16 Q And how do you recognize that?

17 A The same as the previous, it has the
18 same case number, the name, date and my initials.

19 Q I am also going to ask you to look at
20 what is marked as People's Exhibit No. 4 for identification
21 purposes.

22 Do you recognize that particular
23 X-Ray?

24 A Yes.

1 Q And how do you recognize that?

2 A Same way, same number, same date, same
3 initials.

4 Q Finally, I will ask you to look at what
5 is marked as People's Exhibit No. 5 for identification
6 purposes.

7 A Same as the previous.

8 Q Name, number, date, initials.

9 And, Mike, those four X-Rays
10 that you are viewing, People's Exhibit 2, 3, 4 and 5,
11 are those all X-Rays that you took on August 9th of
12 1988?

13 A Correct.

14 Q Of the victim who, or the individual
15 who is portrayed in People's Exhibit No. 1?

16 MS. PLACER: Objection.

17 THE WITNESS: Yes.

18 THE COURT: Overruled.

19 MR. MURPHY: Q Is that correct?

20 A Yes.

21 Q Are those X-Rays, other than the People's
22 Exhibit stickers that are on each of those X-Rays,
23 are they in the same condition that they are in after
24 you developed them?

1 A Yes.

2 Q And do they, to your knowledge, truly
3 and accurately portray the victim's body, if I may,
4 when you took those X-Rays?

5 MS. PLACEK: Objection, again, not qualified
6 to reading.

7 THE COURT: Objection sustained.

8 MR. MURPHY: Q After you took the X-Rays
9 of the victim on Case No. 262 August, 1988,
10 or '88, what did you do with them?

11 A After I did what?

12 Q After you took them and developed the
13 film?

14 A Hand them to the doctor.

15 Q And she is the medical examiner in this
16 case?

17 A Yes.

18 MR. MURPHY: No further questions.

19 THE COURT: Cross?

20 MS. PLACEK: Very briefly, Judge.

21

22

23

24

CROSS EXAMINATION

BY

MS. PLACEK:

Q You are not John, you are Mike, correct?

A Correct.

Q I am sorry, you were introduced as John.

A That is okay.

Q Let me ask you this. In your job at the morgue, you don't take X-Rays of every person that comes in there or every dead person that comes in there, correct?

A Correct.

Q As a matter of fact, the only time that you are asked to take X-Rays is when there is a question of identification, isn't that correct?

A No.

Q Well, let me ask you this.

In this particular case -- Strike that.

Is one of the reasons that you are asked to take X-Rays is when there is a question of identification?

A That is one of my jobs, yes.

MS. PLACEK: That is all, Judge.

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THE COURT: Redirect?

MR. MURPHY: No further questions, Judge.

THE COURT: Thank you, Mr. Gatto, you may step down, sir.

(Witness excused.)

THE COURT: Call your next.

MR. CASSIDY: Yolanda Hill.

MS. PLACEK: Excuse me, may I ask the witness one question?

THE COURT: Yes. Would you return for just one quick question.

(Witness resumed stand.)

MS. PLACEK: Q I do beg your pardon.

Do you know a gentleman by the name of Dr. John Fitzgerald?

A Yes.

Q Who is Dr. John Fitzgerald?

A The Consultant Radiologist for the Cook County Radiologists.

MR. MURPHY: I do have one question.

1 REDIRECT EXAMINATION

2 BY

3 MR. MURPHY:

4 Q Mike, you testified that you saw your
5 markings on the exhibits, is that correct?

6 MR. LUFRAÑO: Objection, beyond the scope of
7 cross.

8 THE COURT: Overruled.

9 MR. MURPHY: Is that correct, Mike?

10 THE WITNESS: Yes.

11 MR. MURPHY: Q The markings that were on there
12 are your initials?

13 A Yes.

14 Q You customarily place your initials on
15 each and all X-Rays you take?

16 A Yes.

17 Q And your initials are on these X-Rays
18 the same as they are on any X-Rays that you take
19 yourself?

20 A That is correct.

21 MR. MURPHY: Nothing further, Judge.

22 MS. PLACEK: I would like to correct myself.
23 When we say we both know Fitzgerald, it's Fitzpatrick?

24 THE WITNESS: Yes.

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MS. PLACEK: I missed it, too.

THE COURT: Thank you very much.

(Witness excused.)

THE COURT: Call your next.

(Witness sworn.)

THE COURT: You may be seated.

That microphone is on. If you will speak directly into it, keep your voice up, we will all hear you.

MS. PLACEK: For the purpose of the record, there would, of course, be an objection as to the out of order taking of the last witness, but the rule of certainty applies, since this is a Bench.

THE COURT: I didn't hear you.

MS. PLACEK: There would be an objection as to foundation testimony of the last witness because he was taken out of order.

I feel I must make it on behalf of my client, but because this is a bench trial, of course, the rule of certainty would apply.

THE COURT: The objection is overruled.

You may proceed.

1 YOLANDA HILL,
2 called as a witness herein, after having been first
3 duly sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MR. CASSIDY:

7 Q Can you please state your name and
8 spell your last name?

9 A Yolanda Hill, last name is H-i-l-l.

10 Q And how old are you, Ms. Hill?

11 A 23.

12 Q And where do you live currently?

13 A 10530 South State.

14 Q And on August 1st of 1988, where were
15 you living at this time?

16 A 11720 South Princeton.

17 THE COURT: I am sorry?

18 THE WITNESS: 11720 South Princeton.

19 MR. CASSIDY: Q And is 117 South Princeton
20 located in Chicago, Cook County, Illinois?

21 A Yes.

22 Q And how long have you lived there prior
23 to August 1st of 1988?

24 A For four months.

1 Q And who else was living at this address,
2 Ms. Hill?

3 A Karlana McCoy, my two kids and her two
4 kids.

5 Q And what relationship was Karlana McCoy
6 to you?

7 A Cousin.

8 Q Was she living there prior to you moving
9 in there?

10 A She had been living there.

11 Q Did you know a person by the name of
12 Denise Johnson?

13 A Yes, I did.

14 Q And can you please tell his Honor,
15 Judge Holt, how do you know Denise Johnson?

16 A Denise Johnson is my cousin.

17 Q And what was her date of birth?

18 MR. LUFRANO: Objection, hearsay.

19 THE COURT: Overruled.

20 MR. CASSIDY: Q When was she born?

21 A August 21st, 1975.

22 Q She was 12 years old on August 1st of
23 1988?

24 A Yes, she was.

1 Q And when you say she was your cousin, how
2 was she your cousin, in what way?

3 A My mother's niece.

4 Q She was your mother's niece?

5 A Yes.

6 Q And what is your mother's name?

7 A Estelle Fields.

8 Q On August 1st of 1988, who had Denise
9 Johnson been living with?

10 Who was Denise living with?

11 A My mother, Estelle Fields.

12 Q And where were they living?

13 A 151 Morgan, Harvey.

14 Q And did you see Denise sometimes?

15 A Yes, I did.

16 Q And how did you come to see Denise?

17 A Denise come over to my house to babysit
18 for me.

19 Q Okay. Babysit for your two kids?

20 A Yes.

21 Q Now, on August 1st of 1988, did Denise
22 come over to your house that day?

23 A Yes, she did.

24 Q And about what time did she come to your

1 house?

2 A 9:00 o'clock.

3 Q That would be in the morning?

4 A In the morning.

5 Q And did you have something to do that
6 day?

7 A Yes, I went for a job interview.

8 Q Now, when Denise came over to your
9 house, what was she wearing?

10 A She was wearing a black tanktop, white
11 pants that come to her knees, white socks and some gym
12 shoes.

13 Q Okay.

14 The color of the gym shoes, what
15 color were these gym shoes?

16 A White.

17 Q And these shorts that she was wearing,
18 how far did they go?

19 A To her knee.

20 Q The gym shoes, did the gym shoes have
21 a name brand on them?

22 A Yes.

23 Q What was the name brand on them?

24 A Princess.

1 Q And that was physically written on the
2 gym shoe, "Princess"?

3 A Yes.

4 Q Was there anything else on the gym shoes
5 written?

6 A Yes, her name was.

7 Q And her name would be what?

8 A Denise.

9 Q And where was the word "Denise," written
10 on these gym shoes?

11 A On the left side.

12 Q On the left shoe?

13 A Yes.

14 Q And where on the left shoe, Ms. Hill,
15 would it be? Would it be on the inside or outside of
16 the shoe?

17 A On the outside.

18 Q What part of the shoe?

19 A The outside of the shoe.

20 Q On the outside of the shoe?

21 A Yes.

22 Q Okay.

23 But would it be on the instep of
24 the shoe, on the outside?

1 A Yes, it would be.

2 Q And do you recall what color, if you
3 recall?

4 A Red ink.

5 Q And how tall was Denise?

6 A About five.

7 Q About five feet?

8 A Yes.

9 Q A little bit under or little bit over?

10 A Under.

11 Q And approximately how much did she weigh?

12 A About 100 pounds.

13 Q Now, on August 1st of 1988, did you go
14 out to your job interview?

15 A Yes, I did.

16 Q Did you leave Denise there with your
17 children?

18 A Yes.

19 Q Did you return from your job interview?

20 A Yes.

21 Q And when you returned, did you return
22 to your house at 11720 Princeton?

23 A Yes.

24 Q Was Denise there?

1 A Yes, she was.

2 Q Was your children there?

3 A Yes.

4 Q Approximately what time did you arrive
5 home?

6 A 4:00 o'clock.

7 Q Okay.

8 Now, approximately 5:00 o'clock,
9 were you still in your house at 11720 Princeton?

10 Were you still home?

11 A Yes, I was.

12 Q Was Denise still there?

13 A Yes, she was.

14 Q Were your children still there?

15 A Yes.

16 Q Was Karlana still there?

17 A Yes.

18 Q Did you have an occasion then to walk
19 from your house to, out to your front porch area at
20 5:15?

21 A Yes.

22 Q Can you tell his Honor, Judge Holt, who
23 was out on the porch when you went out there?

24 A Denise, my two kids and Jerome Hendricks.

1 Q This person that you refer to as
2 Jerome Hendricks, can you look around the Court and
3 see if you see Jerome Hendricks?

4 MS. PLACEK: We stipulate she would identify
5 the Defendant.

6 MR. MURPHY: We accept that stipulation, Judge.

7 THE COURT: Stipulation will be accepted.
8 The record will reflect that she had identified the
9 Defendant.

10 MR. MURPHY: Thank you.

11 MR. CASSIDY: Thank you.

12 Where was Karlana when you went out
13 to the porch?

14 THE WITNESS: Karlana was walking behind me.

15 MR. CASSIDY: Q Karlana was out on the porch
16 after you?

17 A Yes, she was.

18 Q When you got out to the porch, then
19 with Jerome and your two kids out there and your
20 two kids, was there any conversation taking place?

21 A Yes.

22 Q Who was the conversation taking place
23 between?

24 A Jerome was talking to Denise.

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Q Okay.

And after you got out of the porch, what else did you say?

MR. PLACEK: Objection.

THE COURT: Basis?

MS. PLACEK: Foundation.

THE COURT: Lay a better foundation.

MR. CASSIDY: Lay a better foundation?

THE COURT: Yes.

MR. CASSIDY: Q Okay. You say that your kids were there and Jerome was there and Karlana was there and Denise was there, is that correct?

A Yes.

Q Was there anybody else present?

A No.

Q Okay.

And this is about 5:00, 5:15, is that correct?

A Yes.

Q And did you say anything to, at this time?

A To Jerome.

Q What did you say to Jerome?

1 MS. PLACEK: Objection, foundation.

2 THE COURT: Overruled.

3 MR. CASSIDY: Q What did you say to Jerome?

4 A I asked Jerome what was he doing here.

5 Q Okay. What, if anything, did he

6 say?

7 A He said he was just carrying a conver-

8 sation.

9 Q Okay.

10 What, if anything, did you say to

11 him?

12 A I told Jerome that he was not allowed

13 on the porch.

14 Q Okay.

15 Did you say anything else to him,

16 at this time?

17 A No, I took my baby from him and him and

18 Karlana exchanged words.

19 Q You took your baby from Jerome?

20 A Yes.

21 Q What did you do with your baby?

22 A Gave my baby to Denise.

23 Q What, if anything, did you say, at

24 this time?

1 A After I handed my baby to Denise, I
2 bent over and told Denise, and she had got upstairs.

3 Q You said something to Denise?

4 A Yes.

5 Q What did you say to Denise?

6 MS. PLACEK: Objection. Basis as to the Defendant's
7 ability to hear.

8 THE COURT: Overruled.

9 MR. CASSIDY: Q Go ahead.

10 A I told Denise that Jerome had just got
11 out of jail for rape.

12 MS. PLACEK: Objection. Motion for a mistrial,
13 Judge. The State obviously knew they were moving
14 into prejudicial material, Judge.

15 THE COURT: This is a conversation that she
16 had, Ms. Placek, there is no error. The objection is
17 overruled.

18 MR. CASSIDY: Q When you told Denise that,
19 what happened?

20 A Denise took the baby, she went
21 upstairs.

22 Q What did you do?

23 A Karlana and I was talking to Jerome.

24 Q What, if anything, did you say to

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Jerome?

A Told Jerome that Denise was 12 years old and that she was not allowed to talk to any men at all.

Q What, if anything, happened then?

A Karlana told Jerome to leave, and it took Jerome about five or ten minutes to leave the porch. We was arguing with him to get him off the porch.

Q And did he eventually leave the porch? Did he eventually leave?

A Yes, he did.

Q And then what did you do?

A I stood on the porch for a minute to make sure that he was gone.

Q Okay.

And where, then, did you go?

A I went upstairs, me and Karlana went upstairs.

Q Who was upstairs?

A Denise and my two kids.

Q What happened when you went up there?

A We went upstairs to talk to her.

Q Did you have a conversation with her?

1 A Yes, we did.

2 Q Okay.

3 And then what happened after
4 that?

5 A We told Denise about Jerome.

6 Q What did you -- Withdraw that question.

7 Did you stay upstairs in the
8 bedroom?

9 A Yes, I did.

10 Q Okay.

11 Did Denise stay up there in the
12 bedroom?

13 A Denise came to me and asked me could
14 she sit on the porch, because I was hot.

15 Q What did you tell her?

16 MR. PLACEK: Objection, as to both statements,
17 hearsay.

18 THE COURT: What Denise said to her will go
19 out. What she said to Denise will stay in.

20 MR. CASSIDY: Q After Denise said something
21 to you, what did you tell Denise?

22 A I told Denise she could go on the
23 porch just for five minutes.

24 Q What, then, did Denise leave the room?

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A Denise went downstairs.

Q Did you stay upstairs?

A I stayed upstairs.

Q Approximately how long did you stay upstairs?

A For five minutes.

Q And after those five minutes, then what did you do?

A I came downstairs to check on her.

Q And where did you go?

A Downstairs.

Q Outside?

A Yes.

Q And when you went outside, did you go on your front porch where you were earlier?

A Yes.

Q And did you look around?

A Yes.

Q Was Denise there?

A No, she wasn't.

Q Was Jerome there?

A No, he wasn't.

Q Did you ever see Denise alive after that time?

1 MS. PLACEK: Objection, presuming.

2 THE COURT: What does it presume?

3 MS. PLACEK: Live or dead, Judge.

4 THE COURT: Overruled.

5 MR. CASSIDY: Q Do you understand my question,

6 Ms. Hill? Did you ever see Denise again

7 after you walked out that porch?

8 A No, I didn't.

9 Q Are you familiar with the area of
10 11720 South Princeton?

11 A Yes, I am.

12 Q And that is where you were living at this
13 time, is that correct?

14 A Yes.

15 Q Now, Princeton, is that bounded by the
16 -- strike that. Withdraw that question.

17 Did you have a chance to see a
18 diagram of the area up in our office prior to coming
19 down and testifying today?

20 Did I show you a diagram?

21 A Yes.

22 Q Did that diagram truly and accurately
23 depict the area of 11720 Princeton, although it was
24 not to scale?

1
2 A Yes.

3 MS. PLACEK: Well, Judge, with all due respect,
4 Judge, the foundational questions have not been laid
5 as to the knowledge of the area, independent of
6 seeing the diagram in the State's office.

7 THE COURT: The objection is overruled at this
8 point.

9 MR. CASSIDY: Judge, may the witness be allowed
10 to get off, down off the witness stand and look at
11 People's Exhibit No. 6 for identification?

12 MS. PLACEK: May I be allowed?

13 THE COURT: What are you going to say, Ms.
14 Placek?

15 MS. PLACEK: Will I be allowed to move?

16 THE COURT: Certainly.

17 MR. CASSIDY: I will be glad to move it.

18 MS. PLACEK: No, for the Court's pleasure.

19 THE COURT: You can proceed.

20 MR. CASSIDY: Q May the witness be allowed to
21 step down?

22 THE COURT: Yes.

23 MR. CASSIDY: Q Could you step down, Ms. Hill,
24 and walk over here. You can stand over here, Ms. Hill.

Now, is this diagram, People's

1 Exhibit No. 6 for identification, is this
2 the same diagram you seen earlier?

3 A Yes, I did.

4 Q By looking at this, would this be better
5 for you to describe the area?

6 A Yes.

7 Q Now, looking at People's Exhibit No.
8 6 for identification, what area, generally, does
9 this depict?

10 A Where I stay.

11 Q Okay.

12 And would that be approximately
13 the 117 area of Princeton and Yale?

14 A Yes, it would.

15 Q Looking on the diagram, although it's
16 not to scale, do you see approximately where your house
17 would be on that diagram?

18 A Yes.

19 Q And if you would, could you please take
20 this red marker and put an X, if you would, where
21 your house would be?

22 Okay. For the record, Judge, the
23 witness put a red dash.

24 Now, how many houses is your house

1 off the alley which separates -- Strike that.

2
3 Approximately how many houses are
4 you from the alley, which divides, which is the alley
5 behind 11700 Block?

6 MS. PLACEK: Objection, form of the question,
7 Judge.

8 THE COURT: Overruled. If she understands, she
9 may answer.

10 THE WITNESS: One.

11 MR. CASSIDY: Q Approximately one house?

12 A Yes.

13 Q Are you familiar where Jerome Hendricks
14 was living on August 1st of 1988?

15 A Yes, I am.

16 Q And do you see, approximately, or could
17 you identify it on this diagram?

18 A Yes.

19 Q If you would, could you take this
20 marker and put a circle approximately where Jerome
21 Hendricks' house was?

22 For the record, the witness has
23 marked the People's Exhibit No. 6, Judge.

24 Now, Ms. Hill, is that the rear of
the house you identified?

1 A That is the back.

2 Q Back of his house?

3 A Yes.

4 Q And if you would, could you put another
5 circle on where the front of his house would be?

6 A (So done.)

7 Q Now, on August 1st of 1988, was Jerome
8 Hendricks living in the approximate area where you just
9 marked on that diagram?

10 A Yes, he was.

11 Q Was he living in a house?

12 A Yes.

13 Q And with all due respect, there would
14 be certain questions as to foundation of this
15 knowledge.

16 THE COURT: Your objection is sustained.

17 MS. PLACEK: Motion to strike.

18 MR. CASSIDY: Q Did you know where Jerome
19 Hendricks was living on August 1st of 1988?

20 A Yes, I did.

21 Q And how did you know that? Did you
22 see him coming to and from that house?

23 MS. PLACEK: Objection, leading and suggestive.

24 THE COURT: Sustained. Leading.

1 MR. CASSIDY: Q Now, did you know where
2 Jerome was living on that date?

3 A I seen Jerome coming --

4 MS. PLACEK: For purposes of the record, with
5 all due respect --

6 MR. MURPHY: Objection. The witness is not
7 finished.

8 MR. CASSIDY: Counsel's mouth is moving
9 directly when --

10 THE COURT: That objection is overruled.
11 Please don't argue among yourselves.

12 Put another question.

13 MR. CASSIDY: That is a misstatement, though.

14 THE COURT: Put another question and don't
15 argue with Counsel.

16 Put another question to the
17 witness.

18 MR. CASSIDY: Did she finish her answer?

19 THE COURT: I don't know what the answer or
20 the question was, no, because of the colloquy.

21 Put a question.

22 MR. CASSIDY: I apologize.

23 How do you know where Jerome
24 Hendricks was living on August 1st of 1988?

1 THE WITNESS: I seen Jerome coming out of there.

2 MR. CASSIDY: I have no further questions,
3 Judge, or no further questions of the diagram at
4 this time.

5 Can you resume your seat up there?

6 THE COURT: Mr. Cassidy, would you please move
7 the diagram back against the wall now?

8 MR. CASSIDY: For the record, I am showing
9 Defense Counsel People's Exhibit No. 7 for
10 identification.

11 May I approach the witness?

12 THE COURT: What happened to No. 6?

13 MR. CASSIDY: That is the diagram.

14 THE COURT: All right.

15 MR. CASSIDY: Thanks.

16 Ms. Hill, can you please look at
17 People's Exhibit No. 7 for identification.

18 Could you recognize what that is?

19 A Yes.

20 Q Is that a photograph?

21 A Of Denise.

22 Q And was this the photograph taken of
23 her while she was alive?

24 A Yes.

1 Q And does it truly and accurately
2 depict Denise, how she looked when she was alive?

3 A Yes.

4 Q For the record, your Honor, I am
5 showing Defense Counsel People's Exhibit 8, 9, 10 and
6 11.

7 MS. PLACEK: No objection, Judge.

8 Thank you.

9 MR. CASSIDY: Q Ms. Hill, I will show you
10 what is marked as People's Exhibit No. 8 for
11 identification.

12 I ask you to look at that photo-
13 graph and do you recognize what is depicted in this
14 photograph?

15 A Yes.

16 Q And can you please tell the Judge what
17 that photograph shows?

18 A The house where Jerome stay at.

19 MR. LUPRANO: We can't hear. If she could speak
20 up a bit.

21 THE COURT: Try to speak into the microphones.
22 Keep your voice up.

23 MR. CASSIDY: Q Let me ask you this, Ms. Hill.
24

Next to Jerome's house, on August
1st of 1988, there was a garage, isn't that correct?

1 MR. LUFRANO: Objection.

2 MS. PLACEK: Objection, leading and suggestive.

3 THE COURT: Sustained. Leading.

4 MR. CASSIDY: Q Please tell the Judge what
5 People's Exhibit No. 8 shows?

6 MS. PLACEK: Objection, it was previously
7 identified, it will speak for itself.

8 THE COURT: Overruled.

9 MR. CASSIDY: Q What does People's Exhibit
10 No. 8, what does that photograph show, Yolanda?

11 A It was a garage right here.

12 Q What is there now instead of the
13 garage?

14 A Nothing but a pathway.

15 Q All right.

16 And what else is shown in the
17 photograph, besides where the garage used to be?

18 A My house, where I used to live.

19 Q I will show you what is marked as People's
20 Exhibit No. 9 for identification.

21 Do you recognize what is shown in
22 that photograph, Ms. Hill?

23 A Yes.

24 Q And please tell the Judge what that

1 photograph shows?

2 A This photograph?

3 Q Just tell him what it shows, to his
4 Honor.

5 A Where the garage used to be at.

6 Q What garage are you referring to?

7 A The garage that Denise was found in.

8 MS. PLACEK: Objection, unless the foundation
9 can be shown as to knowledge.

10 MR. CASSIDY: Objection is sustained.

11 MS. PLACEK: I ask to strike.

12 THE COURT: Stricken.

13 MR. CASSIDY: Q What does that photograph
14 show?

15 MS. PLACEK: Objection, asked and answered.

16 THE COURT: Overruled.

17 THE WITNESS: The garage that used to be there.

18 MR. CASSIDY: Q Okay.

19 The garage that used to be where?

20 A In the back of the house.

21 Q All right.

22 And is Jerome's house also shown
23 in that photograph?

24 A Yes, it is.

Q The garage you are referring to,
where was that in relationship to Jerome's house?

A Next door to Jerome's.

Q Okay.

And for the record, if you would,
can you put, or what color is Jerome's house in
that photograph?

A Green.

Q I will show you now what is marked
as People's Exhibit No. 10 for identification.

Take a look at it.

Do you recognize what is shown
in that photograph?

A Yes.

Q What is shown in the photograph?

A Jerome's house and the house that
is next door to him and the garage.

Q What is shown in the photograph is
Jerome's house and what else?

A And the house and where the garage was
standing.

Q Where the garage used to be?

A Yes.

Q The garage that was there on August 1st

1 of 1988?

2 A Yes.

3 Q It's no longer there, is that correct?

4 A No.

5 Q Finally, I will show what is marked
6 as People's Exhibit No. 11 for identification. Can
7 you take that.

8 Take a look at it. Do you
9 recognize what is contained, what is depicted in that
10 photograph?

11 A Yes.

12 Q And what is shown in that photograph,
13 Ms. Hill?

14 A This is from our porch, you can see the
15 garage.

16 Q Okay.

17 It shows the angle from your front
18 porch that you were living in on August 1st of 1988?

19 A Yes, where the garage was standing at.

20 Q Where the garage used to be?

21 A Yes.

22 Q Is that what is depicted?

23 A Yes.

24 Q Do all of those four photographs that
you just described, do they truly and accurately show

1 what you just described?

2 A Yes, it is.

3 Q Did Denise ever go to Roseland Community
4 Hospital?

5 A Yes, she did.

6 MS. PLACEK: Objection. Objection, foundation.

7 THE COURT: Objection sustained.

8 MS. PLACEK: Motion to strike.

9 THE COURT: Stricken.

10 MR. CASSIDY: Could I have just a moment, your
11 Honor?

12 THE COURT: Mr. Cassidy, I am going to reverse
13 that ruling as to that question and allow her to
14 answer.

15 MR. CASSIDY: Okay.

16 Could I just have a moment,
17 please, Judge?

18 THE COURT: All right.

19 MR. CASSIDY: Q Now, Ms. Hill, when you left
20 Denise and she went downstairs, back to the front porch
21 and you stayed upstairs, was she in fine physical
22 condition?

23 A Yes, she was.

24 Q Was she alive, as well?

1 A Yes.

2 Q And when was the next time that you
3 saw her?

4 MS. PLACEK: Objection, presuming.

5 THE COURT: Overruled.

6 MR. CASSIDY: Q When was the next time that
7 you saw her?

8 A When she came downstairs.

9 Q All right.

10 After you went out the front
11 porch, you didn't see her again, or you didn't see
12 her on that day, is that right?

13 MR. LUFRAÑO: Objection, leading and suggestive.

14 THE COURT: Overruled.

15 MR. CASSIDY: Q You didn't see her that day,
16 did you?

17 A After the 1st, no.

18 Q Okay.

19 Did you ever see her again?

20 A No.

21 MR. CASSIDY: Thank you, your Honor, I have
22 no further questions.

23 THE COURT: Cross?

24 MS. PLACEK: Very briefly, your Honor.

CROSS EXAMINATION

BY

MS. PLACEK:

Q Ms. Hill, if I say anything you don't understand or if I state a question to you that you have a problem with --

MR. CASSIDY: Objection, Judge.

THE COURT: Overruled.

MS. PLACEK: I will try to restate it, okay?

A All right.

Q Now, Ms. Hill, first of all speaking about your cousin, did you ever tell the police that you were, in fact, her aunt?

MR. CASSIDY: Objection.

THE COURT: Overruled.

MR. CASSIDY: Foundation.

THE COURT: Overruled.

MR. CASSIDY: Objection, Judge, to the foundation.

THE COURT: Overruled.

THE WITNESS: No, I didn't.

MS. PLACEK: Q Calling your attention --

THE COURT: That is when the foundation becomes relevant.

1 MR. MURPHY: It's relevant.

2 THE COURT: If she told the police she had a
3 different relationship than what she is now testifying
4 to, it may become relevant.

5 MR. CASSIDY: Impeachment, for impeachment.

6 THE COURT: Okay.

7 MR. CASSIDY: Correct me if I am wrong, I
8 have been wrong alot today, isn't it correct that, first
9 of all, you, to establish that, you have to have a
10 conversation with a policeman?

11 THE COURT: She has just denied that she
12 told the police that. Now we are going to find out when
13 it was that Counsel --

14 MR. CASSIDY: I had to lay a foundation. I
15 am just asking the same thing.

16 THE COURT: Mr. Cassidy, 315 South Plymouth Court
17 they give refresher courses on evidence, Chicago,
18 Illinois.

19 MR. CASSIDY: Right. I need it.

20 THE COURT: Proceed.

21 MS. PLACEK: Thank you, Judge.

22 THE COURT: This case is not going to proceed
23 like this all through this case with us arguing between
24 ourselves about irrelevances. We are trying to try

1 this case as skilled lawyers without arguments between
2 Counsel and the Court.

3 Proceed.

4 MS. PLACEK: Q Be that as it may, do you
5 remember having a conversation approximately on August
6 7th of 1990 -- Strike that, 1988, with an Officer,
7 a Youth Officer Steve Martkovich, M-a-r-t-k-o-v-i-c-h?

8 A No.

9 Q Do you remember, at this time, that he
10 spoke to you approximately -- that he spoke to you
11 concerning your missing relative, Denise Johnson,
12 your niece?

13 A No.

14 Q Do you remember whether or not he asked
15 you what your relationship was to Denise Johnson?

16 A I don't remember speaking to anyone by
17 that name.

18 Q Do you remember whether or not you
19 told him, at that time, that you were, in fact, her
20 aunt?

21 A No.

22 THE COURT: No, you do not remember or no, --

23 THE WITNESS: No, I do not remember.

24 MS. PLACEK: Q Do you remember that conversation